

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BOBBY YOUNGER,

Petitioner,

Case Number 08-10436

Honorable David M. Lawson

v.

JAN E. TROMBLEY,

Respondent.

**ORDER DENYING PETITIONER'S MOTION FOR EVIDENTIARY HEARING
AND PETITIONER'S MOTION FOR APPOINTMENT OF COUNSEL**

On March 18, 2011, the petitioner filed a motion for evidentiary hearing and a motion for appointment of counsel. “[A]ppointment of counsel in a civil case is . . . a matter within the discretion of the court. It is a privilege not a right.” *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987) (quoting *U.S. v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965)). The petitioner has failed to present convincing reasons as to why this Court should exercise its discretionary power at this time.

Rule 8 of the Rules Governing Section 2254 Cases in the United States District Courts states, in pertinent part:

If the petition is not dismissed at a previous stage in the proceeding, the judge, after the answer and the transcript and record of state court proceedings are filed, shall, upon a review of those proceedings and of the expanded record, if any, determine whether an evidentiary hearing is required.

Rule 8(a), Rules Governing Section 2254 Cases. This Court is not persuaded that an evidentiary hearing is necessary to adjudicate the claims in the petition at this time. *See* 28 U.S.C. § 2254(e)(2).

Accordingly, it is **ORDERED** that the petitioner's motion for appointment of counsel [dkt. #22] is **DENIED**.

It is further **ORDERED** that the petitioner's motion for evidentiary hearing [dkt. #21] is **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: March 25, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on March 25, 2011.

s/Deborah R. Tofil
DEBORAH R. TOFIL